

ATTACHMENT D

U.S.A. v. Edward Showalter - 12/3/2007

Page 1

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION OF SANTA ANA

HONORABLE ANDREW J. GUILFORD, JUDGE PRESIDING

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	SACR NO. 06-129-AG
)	
EDWARD SHOWALTER,)	
)	
Defendant.)	
)	

REPORTER'S TRANSCRIPT OF PROCEEDINGS
SANTA ANA, CALIFORNIA

MONDAY, DECEMBER 3, 2007
2:54 P.M.

PAMELA COTTEN, CSR, RDR, CERTIFICATE NO. 4497
PRO TEM COURT REPORTER
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U.S.A. v. Edward Showalter - 12/3/2007

Page 2

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U.S.A. v. Edward Showalter - 12/3/2007

Page 3

I N D E X

ARGUMENT BY:

PAGE

MR. MILLER

10, 28

MR. CORTEZ

25, 47

MR. STOLPER

18, 30, 53

VICTIM STATEMENT OF:

PAGE

ANTHONY JONES

34

JOHANN LIPPERT & EDEL FRANK

36

TOM PAINTER

37

GATINDER PASRICHA

38

JACK PITT

39

JOE RYBUS

40

ANITA TIBAU

42

RANDY WRIGHT

45

U.S.A. v. Edward Showalter - 12/3/2007

Page 11

1 me the defendant's position on each of those disputed issues,
2 the first being?

3 MR. MILLER: Your Honor, our position on these
4 disputed issues is somewhat complex given that we filed a
5 motion to withdraw the guilty plea. So that our first and
6 a priori position is there is no loss, that there are no
7 victims.

8 The further response is assuming -- the further
9 response that I have, your Honor, is based on the plea
10 agreement that we attempted to withdraw. The Government has
11 argued the plea agreement taken together with the presentence
12 report support a certain amount of loss and a certain number
13 of victims, basically a 15 million dollar loss and 117
14 victims. Our position is if you take -- even assuming
15 arguendo you could rely on the plea agreement, which we
16 submit you cannot, if you could that would not support more
17 than ten victims and a loss of one million dollars.

18 THE COURT: Do you want to explain that?

19 MR. MILLER: Yes, your Honor.

20 If you look at the plea agreement, the plea
21 agreement says that Mr. Showalter stipulates that there was a
22 minimum loss of one million dollars and that there were at
23 least ten victims. It does not stipulate to anything more
24 than that. Beyond that you have to rely on the presentence
25 report. If you rely on the presentence report, you get to

U.S.A. v. Edward Showalter - 12/3/2007

Page 62

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REPORTER'S CERTIFICATE

I, Pamela Cotten, a Certified Shorthand Reporter, do hereby certify that the foregoing proceeding was written by me in Stenotype and transcribed into typewriting and that the foregoing is a true and correct copy of my shorthand notes thereof.

PAMELA COTTEN, CSR, RDR

Dated: __October 21, 2008__